



CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

May 2, 2008

S. 2136

Helping Families Save their Homes in Bankruptcy Act of 2008

As ordered reported by the Senate Committee on the Judiciary on April 3, 2008

SUMMARY

S. 2136 would authorize bankruptcy courts to modify the terms of certain nontraditional and subprime mortgages during Chapter 13 bankruptcy proceedings. CBO estimates that enacting S. 2136 would reduce direct spending by \$13 million over the 2009-2018 period and increase revenues by \$10 million over the same period. Although CBO estimates that the bill would add to court costs to adjudicate bankruptcies, we expect that such costs would not be significant and would be subject to the availability of appropriated funds.

S. 2136 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

S. 2136 would impose private-sector mandates, as defined in UMRA, on some creditors in bankruptcy proceedings. Because of uncertainty about the number of bankruptcy plans that would be modified and how those changes would affect holders of secured claims, CBO cannot determine whether the aggregate cost of complying with the mandates would exceed the annual threshold specified in UMRA (\$136 million in 2008, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 2136 is shown in the following table. The costs of this legislation fall within budget function 750 (administration of justice).

	By Fiscal Year, in Millions of Dollars											
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2009-2013	2009-2018
CHANGES IN DIRECT SPENDING												
Estimated Budget Authority	-2	-2	-2	-1	-1	-1	-1	-1	-1	-1	-8	-13
Estimated Outlays	-2	-2	-2	-1	-1	-1	-1	-1	-1	-1	-8	-13
CHANGES IN REVENUES												
Estimated Revenues	1	1	1	1	1	1	1	1	1	1	5	10

BASIS OF ESTIMATE

CBO assumes that S. 2136 will be enacted near the end of 2008.

Direct Spending

S. 2136 would allow bankruptcy courts to modify the terms of certain nontraditional and subprime mortgages (as defined in the bill) for a primary residence during Chapter 13 bankruptcy proceedings. Generally, the bill would apply to debtors whose income, after several deductions, is insufficient to pay their mortgage and maintain all other debt payments. Under current law, bankruptcy courts can establish a payment plan for overdue mortgage payments but cannot change the amount, timing, or interest rate terms of mortgage payments. In 2007, around 310,000 individuals filed for bankruptcy under Chapter 13.

Information from the Administrative Office of the United States Courts (AOUSC) indicates that a significant portion of the individuals who are delinquent in their mortgage payments seek bankruptcy protection under Chapter 13. CBO expects this pattern to continue for individuals with all types of mortgages, including those that are subprime and nontraditional. We also expect that the bill could encourage some individuals to file for Chapter 13 bankruptcy who otherwise would not seek such protection, resulting in a small percentage increase (about 5 percent) in annual filings over the number expected under current law.

Fees collected for bankruptcy filings (\$235 per Chapter 13 filing) are distributed among several government entities. About half of the amounts collected are used to cover the judiciary's and U.S. Trustees's costs, and thus have no net effect on federal spending. A portion of those filing fees, however, is recorded as an offsetting receipt (a credit against direct spending) in the federal budget and deposited into a special fund in the Treasury; those

amounts are not available for spending unless provided in an appropriation act. CBO estimates that enacting the legislation would increase such offsetting receipts by \$13 million over the 2009-2018 period. (In 2007, \$135 million was collected from all bankruptcy filing fees.)

Revenues

Another portion of Chapter 13 filing fees is deposited into the general fund of the Treasury and recorded as revenues. CBO estimates that enacting S. 2136 would increase such revenues from additional Chapter 13 bankruptcy filing fees by \$10 million over the 2009-2018 period.

Spending Subject to Appropriation

Based on information from the AOUSC, CBO expects that enacting the bill could increase the workload of court staff; spending for that purpose would be subject to the availability of appropriated sums, and we estimate that any increase in such spending would be insignificant. Similarly, the bill could increase the workload of the United States Trustees; CBO estimates that cost also would be insignificant.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 2136 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

S. 2136 would impose private-sector mandates, as defined in UMRA, on certain creditors in bankruptcy proceedings. The bill would allow bankruptcy judges to modify the rights of holders of certain claims on mortgage debt by making changes to the terms of home mortgage agreements during bankruptcy proceedings. The bill also would require such claimholders to give timely notice to both the debtor and the bankruptcy trustee before adding fees, costs, or charges while a bankruptcy case is pending. In addition, if a debtor is age 55 or older, the bill would exempt from the estate in bankruptcy up to \$75,000 of the debtor's aggregate equity in his or her principal residence in states that allow such exemptions. This provision would impose a mandate on some creditors by limiting the amount of a debtor's assets available to creditors under bankruptcy.

The cost of those mandates would depend on the number of Chapter 13 bankruptcy plans that judges would choose to modify, how changes in home mortgage agreements would affect holders of secured claims, and the number of claims affected by the higher exemption. The amount recovered by a claimholder through a bankruptcy proceeding relative to the amount that can be recovered through foreclosure would vary depending on market conditions. In some cases, claimholders might not incur incremental costs compared with those under current law from changes that would aid debtors in preventing foreclosure on their homes. Because of those uncertainties, CBO cannot determine whether the aggregate cost of complying with all of the mandates in the bill would exceed the annual threshold (\$136 million in 2008, adjusted annually for inflation).

PREVIOUS CBO ESTIMATE

On February 5, 2008, CBO transmitted a cost estimate for H.R. 3609, the Emergency Home Ownership and Mortgage Equity Protection Act of 2007, as ordered reported by the House Committee on the Judiciary on December 12, 2007. The two bills are similar; however, the provision of S. 2136 that would allow bankruptcy judges to modify mortgages would be in effect indefinitely. (Under H.R. 3609, that provision would sunset seven years after enactment). CBO's cost estimate for S. 2136 reflects that difference.

CBO determined that H.R. 3609 contained new private-sector mandates but could not determine whether the costs would exceed the annual threshold. The two bills contain the same mandates regarding modifying the rights of claimholders by making changes to the terms of certain home mortgage agreements during bankruptcy proceedings and requiring claimholders to give timely notice to both the debtor and the bankruptcy trustee before adding fees.

ESTIMATE PREPARED BY:

Federal Costs: Leigh Angres

Impact on State, Local, and Tribal Governments: Melissa Merrell

Impact on the Private Sector: Paige Piper/Bach

ESTIMATE APPROVED BY:

Theresa Gullo

Deputy Assistant Director for Budget Analysis